

SERVICE DATE – LATE RELEASE DECEMBER 19, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Ex Parte No. 646 (Sub-No.1)

SIMPLIFIED STANDARDS FOR RAIL RATE CASES

Decided: December 19, 2006

By a decision in this proceeding served on July 28, 2006, the Board proposed to clarify and simplify its procedures for “determining the reasonableness of challenged rail rates in those cases in which a full stand-alone cost presentation is too costly, given the value of the case” under 49 U.S.C. 10701(d)(3). Specifically, the Board proposed to: (1) create a simplified stand-alone cost (Simplified-SAC) procedure to use in medium-size rate disputes for which a full stand-alone cost presentation is too costly, given the value of the case; (2) retain the “Three-Benchmark” method of Rate Guidelines – Non-Coal Proceedings, 1 S.T.B. 1004 (1996), with certain modifications and refinements, for small rate disputes for which even a Simplified-SAC presentation would be too costly, given the value of the case; and (3) establish eligibility presumptions based on the maximum value of the case to distinguish between large, medium-size, and small rail rate disputes. That decision called for interested parties to submit comments by September 29, 2006. Reply submissions were due by October 30, 2006, and rebuttal submissions were due by December 1, 2006.

As a result of a request for an extension of time filed by the American Chemistry Council, The Fertilizer Institute, the National Grain and Feed Association, and The National Industrial Transportation League (collectively, Interested Parties), the Board issued a new procedural schedule in a decision served on September 15, 2006. That decision stated that the Board intended to pursue the resolution of these issues expeditiously. Opening comments were filed on October 24, 2006; replies were filed on November 30, 2006; and rebuttals are due on December 21, 2006.

On December 11, 2006, Interested Parties requested another extension of time to file rebuttal evidence. Interested Parties state that an extension is necessary to allow time to evaluate a proposal made by the Association of American Railroads (AAR) regarding the maximum value of a small rate case. AAR replied on the same day and stated that they have no objection to the extension request.

In the interest of accommodating the Interested Parties’ unopposed request, while also avoiding unnecessary delay, we will grant an extension of time until January 11, 2007. This should allow Interested Parties enough time to review AAR’s proposal and develop an evidentiary submission.

The full request will not be granted because the Board will hold a public hearing in this proceeding at 9:00 a.m. on Wednesday, January 31, 2007, in Room 760, the Board's Hearing Room, on the 7th floor at the Board's headquarters in the Mercury Building, 1925 K Street, N.W., Washington, DC. The extension, as granted, permits sufficient time for the submission and review of the comments in advance of the hearing. The hearing is intended as a forum for the parties' representatives to provide views about the Board's proposal and issues raised in the three rounds of filings.

Any party wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should identify the party, the proposed speaker, and the time requested, as soon as possible, but no later than January 11, 2007. The Board will serve a decision listing specific issues that the Board wishes the parties to focus on no later than January 22, 2007. For this hearing, the Board will not require the parties to file a summary of key points to be addressed.

The Board's hearing room complies with the Americans With Disabilities Act, and persons needing such accommodations should call (202) 565-1500, or (202) 565-1653, by the close of business on January 26, 2007.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The request for an extension of the December 21, 2006 due date for rebuttal submissions is granted as discussed above and rebuttal filings are due on January 11, 2007.
2. A public hearing in this proceeding will be held on Wednesday, January 31, 2007, beginning at 9:00 a.m., in the Surface Transportation Board Hearing Room (Room 760), at 1925 K Street, N.W., Washington, D.C.
3. Each party must provide written notice of intent to participate by January 11, 2007.
4. This decision is effective on the date of service.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary